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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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2005 MAR -9 P 4: 06

DOCKETED

JEFF HATCH-MILLER, Chairman  
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MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES

AZ CORP COMMISSION  
DOCUMENT CONTROL

MAR - 9 2005

DOCKETED BY

*AK*

IN THE MATTER OF THE FILING OF  
ARIZONA-AMERICAN WATER COMPANY  
OF AN AFFILIATE AGREEMENT WITH  
AMERICAN WATER RESOURCES, INC.

DOCKET NO. WS-01303A-05-\_\_\_\_\_

WS-01303A-05-0170

1  
2 1. Arizona American Water Company ("Arizona American") files the Agreement  
3 For Support Services Between American Water Resources, Inc. and Arizona American Water  
4 Company. A copy of the Agreement is attached as Exhibit A.

5 2. Arizona American is a subsidiary of American Water Works Company, Inc.,  
6 which serves approximately 20 million customers in 27 states, and four Canadian provinces.  
7 Arizona American provides water and wastewater service to more than 131,000 customers  
8 throughout Arizona, as authorized and regulated by the Commission.

9 3. American Water Resources, Inc. ("AWR") is also a subsidiary of American Water  
10 Works Company, Inc. The Arizona Department of Insurance has issued a permit to AWR, which  
11 states that AWR is qualified under A.R.S. § 20-1095-3 and authorized to transact business in the  
12 State of Arizona as a Service Company, as that term is defined in A.R.S. § 20-1095. A copy of  
13 AWR's current permit is attached as Exhibit B.

14 PROGRAM DESCRIPTION

15 4. Customers own their service lines, although many customers may not be aware of  
16 this fact or where the service lines are located. In the case of a water line, this is the line that  
17 runs from the water meter to the shut-off valve outside the house; in the case of the sewer line,

1 this is the line that runs from the property line to the house. Problems can develop with these  
2 service lines through tree-root incursions, seasonal soil subsidence, aging, or other normal wear  
3 and tear causes. Locating a qualified contractor to repair these problems can be a frustrating  
4 process and the cost, which can be very expensive, is not typically covered by homeowner's  
5 insurance.

6         5.       Currently, when a problem develops in the customer's service line, the customer  
7 is responsible for making all necessary arrangements to have the line repaired and to pay all of  
8 the repair costs. AWR has developed a Water Line Protection Program and a Sewer Line  
9 Protection Program (collectively, the "Programs") for residential customers that provides a  
10 convenient and cost-effective means for making repairs to customer-owned water service lines  
11 that leak or break or sewer service lines that become clogged or blocked due to normal wear and  
12 tear. Customers enrolling in the Programs pay a modest annual fee and in the event of a covered  
13 problem in the customer-owned portion of the line, AWR will obtain the proper permits and  
14 make arrangements for necessary repairs, including basic site restoration, up to a stated program  
15 limit.\*

16         6.       Repair services will be provided by AWR through the use of local independent,  
17 licensed, contractors who operate in or near an Arizona American District. The relationship  
18 between these contractors and AWR will be similar to the relationships contractors have with  
19 home-repair and installation services being offered by Home Depot and Sears. No Arizona  
20 American or AWR employees will be used to make any actual service line repairs.

21         7.       A detailed summary of the Programs is attached as Exhibit C.

---

\* A repair required because of damage caused to a service line by a smoke or dye test as a result of Arizona American's testing of course remains Arizona American's responsibility.

1           8.       Arizona American believes that the Programs will be extremely beneficial to its  
2 customers. As such, it has entered into the attached Agreement with AWR.

3 **SUMMARY OF MAJOR CONTRACT TERMS**

4           9.       Under the terms of the Agreement, AWR will make the Programs available to  
5 Arizona American's qualifying residential customers and Arizona American will provide the  
6 following support services ("Services") for the Program:

7               a.       **Distribution of Promotional Materials.** Arizona American will assist  
8 AWR in the distribution of informational and promotional materials regarding the  
9 Programs to its customers. From time to time, Arizona American may also distribute  
10 customer satisfaction surveys. AWR is solely responsible for all costs associated with  
11 these activities.

12              b.       **Repair Service Coordination.** If an Arizona American employee should  
13 determine, as a part of his/her normal duties, that a customer's water line is leaking or  
14 broken or sewer line is clogged or blocked, and that the customer has enrolled in the  
15 applicable Program, the employee will cause AWR to be notified.

16              c.       **Billing and Collecting.** A customer who enrolls in either or both of the  
17 Programs will be billed in equal installments on their periodic water or sewer bill from  
18 Arizona American. Arizona American will include the cost of the Program(s) as a  
19 separate line item on the customer's water or sewer bill, will collect payments in the  
20 usual manner, and then forward the funds to AWR.

21           10.       The fee paid to Arizona American by AWR for Services rendered under the  
22 Agreement, will be equal to the greater of 115% of fully distributed costs incurred by Arizona  
23 American in providing the Services or the market price for such Services if one is ascertainable.

11. The Agreement is non-exclusive. Arizona American will be able to enter into a similar agreement with another qualified service provider offering similar services. AWR will be able to offer the Services to other regulated and municipal water and wastewater providers in the State of Arizona.


## NO ADVERSE CUSTOMER IMPACT

12. The proposed transaction will not adversely affect Arizona American's provision of water or wastewater service. To the contrary, those customers who choose to enroll in the Programs will have an enhanced level of service and benefits in terms of convenience and potential cost savings in the event of required service-line repairs.

**NO SUBSIDY; IN THE PUBLIC INTEREST**

13. Arizona American's customers will not subsidize the costs of the Programs. The terms of the Agreement are in the public interest because they are fair and reasonable and assure that Arizona American will be fully reimbursed for the Services rendered to AWR.

RESPECTFULLY SUBMITTED for filing on March 8, 2005.

  
Craig A. Marks  
Corporate Counsel  
Arizona American Water  
19820 N. 7<sup>th</sup> Street  
Suite 201  
Phoenix, Arizona 85024

1 Original and thirteen copies filed  
2 on March 8, 2005 with:

3  
4 Docket Control  
5 Arizona Corporation Commission  
6 1200 W. Washington St.  
7 Phoenix, Arizona 85007  
8

9 Copies of the foregoing mailed  
10 or delivered on March 8, 2005, to:

11  
12 Steven M. Olea  
13 Assistant Director  
14 Arizona Corporation Commission  
15 1200 W. Washington St.  
16 Phoenix, Arizona 85007  
17

18 Janice Alward  
19 Deputy Chief Counsel  
20 Arizona Corporation Commission  
21 1200 W. Washington St.  
22 Phoenix, Arizona 85007  
23

24 Stephen Ahearn  
25 Director  
26 Residential Utility Consumer Office  
27 1110 W. Washington St.  
28 Suite 210  
29 Phoenix, Arizona 85007  
30

31 Scott S. Wakefield  
32 Chief Counsel  
33 Residential Utility Consumer Office  
34 1110 W. Washington St.  
35 Suite 210  
36 Phoenix, Arizona 85007  
37

38  
39  
40 By:

  
41 Melissa Bronson  
42

**Exhibit A**

**Agreement For Support Services Between American Water Resources, Inc. And Arizona  
American Water Company**

**AGREEMENT FOR SUPPORT SERVICES**  
**BETWEEN**  
**AMERICAN WATER RESOURCES, INC.**  
**AND**  
**ARIZONA AMERICAN WATER COMPANY**

**March 1, 2005**

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**AGREEMENT FOR SUPPORT SERVICES**  
**BETWEEN**  
**AMERICAN WATER RESOURCES, INC.**  
**AND**  
**ARIZONA AMERICAN WATER COMPANY**

This Service Agreement, dated as of the 1st day of March, 2005 (the "Agreement"), is by and between the AMERICAN WATER RESOURCES, INC. (AWR), a corporation organized and existing under the laws of the Commonwealth of Virginia, with its principal office located at 1025 Laurel Oak Road, Voorhees, New Jersey 08043, and ARIZONA AMERICAN WATER COMPANY (Utility), a corporation organized and existing under the laws of the State of Arizona, with its principal office located at 19820 North 7<sup>th</sup> Street, Suite 201, Phoenix, Arizona 85024.

WHEREAS, AWR provides certain services to utility customers, as more particularly described on Appendix A which is attached hereto and incorporated herein by reference, which list may be modified or amended from time to time by AWR (hereinafter the "Programs"); and

WHEREAS, Utility is the owner of a public water supply system; and

WHEREAS, many of Utility's residential customers may desire to and qualify to participate in one or more of AWR's Programs; and

WHEREAS, Utility desires to make certain or all of the Programs available to its customers upon the terms and conditions contained herein; and

WHEREAS, AWR desires to contract with Utility for certain customer support services for the Programs; and

WHEREAS, Utility possesses the necessary ability and experience to provide such customer support services and is willing to provide such services for the Programs upon the

terms and conditions contained herein; and

WHEREAS, it is the mutual desire of the parties to enter into this Agreement providing for the customer support for the Programs;

NOW, THEREFORE, for and in consideration of the mutual promises set forth herein, and subject to the terms and conditions herein stated, AWR and Utility agree as follows:

SECTION 1. Definitions.

The following words and phrases when used in this Agreement shall have the following meaning:

"Agreement" means this Agreement between AWR and Utility.

"Force Majeure" means those events set forth in Section 13 of this Agreement.

"Fully Distributed Costs" means costs determined in a manner that complies with the standards and procedures for the apportionment of special, joint, and common costs between the Utility and any non-regulated entity in accordance with applicable regulations of the Arizona Corporation Commission (ACC), except taxes as discussed in Section 5. A fully distributed costing methodology apportions the total costs of a group of services or products, including the authorized rate of return, among the individual services or products in that group.

Should the ACC assign different costs than Utility has assigned, such commission or board assigned costs, once such assignment is final and non-appealable, shall be the Fully Distributed Costs, until such time as the ACC assigns different costs, at which time such newly assigned costs shall be the Fully Distributed Costs. Whether to appeal a decision of the ACC shall be in Utility's sole discretion.

"Services" means all of the duties, obligations, and services as defined herein to be provided by Utility that are related to the performance and operation of AWR's Programs.

SECTION 2. Appointment of Utility.

AWR hereby engages and appoints Utility to provide certain customer support services for the Programs.

SECTION 3. Term; Termination.

3.1 Term. The term of this Agreement shall commence on January 1, 2005, and be for a period of one (1) year unless sooner terminated or extended as hereinafter provided.

3.2 Renewal. The Agreement will automatically renew itself for periods of one (1) year, each following one after the other, unless either party gives written notice of termination to the other party in accordance with Section 3.3.1.1.

3.3 Termination.

3.3.1 Termination Without Cause:

3.3.1.1 Procedure - After the initial one (1) year term, this Agreement may be terminated without cause or penalty by either party upon giving the other party sixty (60) days written notice in advance of the date upon which the termination becomes effective. This Agreement shall automatically terminate at such time as either party, or its successor is no longer an affiliate of American Water Works Company, Inc.

3.3.1.2 Transition Services Following Termination Without Cause -

Upon termination of the Agreement without cause, Utility shall continue to provide services to AWR, at AWR's request, for a period of not longer than sixty (60) days during AWR's transition to another service provider. Such transition services shall be provided under and subject to the same terms and provisions of this Agreement, including compensation.

3.3.2 Termination Upon Material Breach - Either party to the Agreement may terminate this Agreement upon material breach by the other party. The non-breaching party shall provide written notice of such breach to the other party, setting forth in detail the alleged failure

and/or deficiency, and, if such breach is not corrected within thirty (30) days from receipt of written notice by certified mail, this Agreement shall be terminated.

#### SECTION 4. Compensation.

4.1 Fee. The fee paid to Utility by AWR for Services rendered pursuant to this Agreement shall be equal to one hundred and fifteen (115%) percent of the Fully Distributed Costs incurred by Utility in providing the Services except for billing and collection services. The Fee for billing and collection services rendered by Utility as set forth in Paragraph 6.1.3 below shall be at a rate of \$.10 per customer per monthly billing period and apply in the aggregate to customers participating in one or more of AWR's Programs. The \$.10 rate may be adjusted from time to time as determined by the ACC to be consistent with any other such billing and collection service rates charged by Utility, under tariff, to others.

4.2 Allocation by Regulating Authority. Notwithstanding the fee schedule contained in Section 4.1, should the ACC disallow any cost of the Utility in excess of the Fully Distributed Costs as a result of the services provided to AWR pursuant hereto, AWR shall reimburse Utility for such disallowed costs, within thirty (30) days of receipt of notice of same and the fees due pursuant hereto shall be adjusted to reflect such allocation by the ACC.

#### 4.3 Reporting and Payments.

4.3.1 Utility shall maintain detailed records of all costs incurred in providing services to AWR. Utility will make such detailed records available for AWR's periodic review upon request by AWR, during normal business hours, at Utility's principal office.

4.3.2 Utility shall invoice AWR monthly or quarterly, at Utility's discretion, for the fee for services on or about the tenth business day of each billing period during the term of

this Agreement. The invoice shall detail the services provided and the costs incurred. AWR shall pay such fee to Utility within fifteen (15) days of the date of the invoice.

SECTION 5. Taxes.

Any tax or other amount which Utility may be required to pay to or collect for a government agency upon or with respect to the Services rendered hereunder, or the use or delivery of any products or parts thereof on behalf of AWR, except income taxes, will be billed to AWR as separately stated charges and will be paid by AWR in addition to the fees paid pursuant to Section 4. In the event AWR disputes the taxability of an item hereunder, Utility will continue to collect such tax unless and until AWR provides Utility with documentation authorized and prescribed by the taxing authority, such as a certificate of exemption, relieving Utility from liability for the collection and payment of such tax.

SECTION 6. Scope of Services.

6.1 Utility agrees that it shall provide the following customer support services for the Programs in accordance with the terms and provisions of this Agreement:

6.1.1 Distribution of Promotional Materials. Upon request of AWR, Utility shall manage and direct the distribution of informational and promotional materials regarding the Program to its customers. Such materials shall be developed by AWR and provided to Utility in sufficient quantities and in a timely manner so as not to impede any planned distribution efforts by Utility. The materials shall be distributed as a part of Utility's normal billing process, unless arrangements are made, at least sixty (60) days in advance, for a special mailing. The materials provided by AWR must be satisfactory in form and content to Utility, and nothing in this Agreement shall require Utility to distribute any materials that are not satisfactory to Utility. Utility shall make all reasonable efforts to promptly notify AWR when additional quantities of

promotional materials are needed. Utility shall have the sole discretion to determine the customers who will receive the informational and promotional materials for the Program.

6.1.2 Notification of Claim. Should a Utility associate, as a part of his/her normal duties, determine that a Utility customer has a covered occurrence with the Customer's water or sewer service line, the Utility associate shall notify AWR by calling a toll-free telephone number to be supplied by AWR. AWR shall then engage a qualified contractor to provide the covered services to the customer. AWR shall timely provide the necessary information to cause Utility's customer records to reflect when coverage is available.

6.1.3 Billing and Collection. AWR shall provide Utility with a list of enrolled customers in its Programs who have chosen to have charges from AWR included on their bill from Utility, and shall keep such list up to date. Utility shall include such charges on the customer's bill and collect such charges from the customer until such time as the customer or AWR notifies Utility that the customer is no longer receiving service from AWR or has elected a different payment option. Utility shall forward collected payments from enrolled customers to AWR within fifteen days following the end of each calendar month for amounts collected during such month. All payments made by the customer shall be credited first to payment of any amount owed for utility service furnished by Utility; any remainder shall first be credited to payment of any amount owed for utility service furnished by someone other than Utility but shown as a line item on the bill sent to the customer by Utility; and any remainder shall then be credited to payment of any amount owed to AWR. Utility shall not interrupt, cease or refuse utility service to a customer for non-payment of amounts owed to AWR. AWR shall be responsible for all collection efforts for non-payment by Utility customers for AWR Programs.

6.1.4 Other Services. Utility shall perform such other and further services as are agreed to in a Service Order in the form attached hereto as **Exhibit 1** executed by the parties during the Term hereof.

SECTION 7. Provision of Information.

Except as provided herein, any specifications, diagrams, sketches, models, examples, tools, computer or other apparatus, programs, software, technical or business information, written, oral or otherwise (all hereinafter collectively referred to as "Confidential Information"), furnished by one party (hereinafter referred to as the "Disclosing Party") to the other party (hereinafter referred to as the "Receiving Party") under this Agreement or in contemplation of this Agreement will remain the property of the Disclosing Party and will be held Confidential by the Receiving Party. All copies of such information will be returned to the Disclosing Party upon request. The Receiving Party, and any individual assigned by the Receiving Party will not permit the duplication, use or disclosure of the Confidential Information whether such disclosure be oral, written, in the form of computer tapes, drawings or other medium to any person other than the Receiving Party's employees, agents or representatives who must have such information to provide the Services, unless otherwise specifically authorized in writing by the Disclosing Party.

Confidential Information does not include any information which, at the time of disclosure, is generally known by the public, is rightfully obtained from third parties, is independently developed by the Receiving Party and any individual assigned by the Receiving Party outside the scope of its performance herein, or had been in the possession of the Receiving Party and any individual assigned by the Receiving Party prior to its commencement of the performance of its services.



The Receiving Party and any individual assigned by the Receiving Party agrees that: (1) this covenant not to disclose our use Confidential Information shall survive termination of this Agreement; and (2) it shall be liable for any and all breaches of such covenant by the Receiving Party, its employees, agents or representatives, whether such breach occurs during or after the term of this Agreement.

The Receiving Party shall take such steps as may be necessary in order to limit access to the Confidential Information on a need-to-know basis and assure compliance by the employees, agents and representatives to whom such information is given.

The provisions of this section shall survive termination of this Agreement.

It is understood that the Receiving Party may be required to furnish information to judicial, regulatory, or administrative bodies. In such an event, the Receiving Party will promptly notify the Disclosing Party of such requirement and will cooperate with the Disclosing Party should the Disclosing Party desire to seek a protective order to prevent the public disclosure of its information.

#### SECTION 8. Compliance with Laws.

Both parties agree to comply with the provisions of the Fair Labor Standards Act of 1938, as amended, and all other applicable federal and state laws, rules, regulations and codes with which they are obligated to comply in the performance of this Agreement, including the procurement of permits and certificates where needed. Both parties further agree not to discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age or handicap, and to comply with all applicable federal and state laws, orders, rules and regulations on this subject during the performance of this Agreement.

This Agreement shall be subject to any and all applicable federal, state and local laws, regulations, and ordinances, as well as any applicable tariffs. To the extent necessary, the parties

agree to amend this Agreement to conform to the requirements of any such laws, regulations, ordinances, or tariffs.

AWR shall provide Utility with evidence reasonably requested by Utility to demonstrate compliance herewith.

SECTION 9. Insurance.

9.1 AWR shall, during the term of this Agreement, maintain the following insurance coverages with respect to the Programs, and shall include Utility as an Additional Insured:

9.1.1 Commercial General Liability, including Products and Completed Operations, and Contractual Liability with limit of \$2,000,000, combined single limit.

9.1.2 Comprehensive Automobile Liability with limit of \$2,000,000, combined single limit.

9.1.3 Excess Commercial General and Automobile Liability with limit of \$2,000,000, excess of \$2,000,000.

9.2 AWR shall cause each contractor it engages to perform services under the Programs (collectively "Repair Contractors"), during the term of this Agreement, to maintain the following insurance coverages with respect to the Programs, which coverages in subsections 9.2.1-9.2.3 shall include Utility as an Additional Insured:

9.2.1 Commercial General Liability, including Products and Completed Operations, and Contractual Liability with limit of \$1,000,000, combined single limit.

9.2.2 Comprehensive Automobile Liability with limit of \$1,000,000, combined single limit.

9.2.3 Excess Commercial General and Automobile Liability with limit of \$1,000,000, excess of \$1,000,000.

9.2.4 Workers Compensation coverage with Statutory Limits.

9.3 AWR shall, and shall cause its Repair Contractors to, furnish Utility with certificates of insurance evidencing coverage as required by this Paragraph.

SECTION 10. Obligations of AWR.

10.1 Development of Informational Materials. AWR shall be responsible for developing, producing, and printing all informational materials for the Programs.

10.2 Training. At its sole cost, AWR shall provide all necessary training and information to Utility personnel as is necessary to allow Utility to fully perform hereunder. Such training will be specific to educating Utility employees in the operation, terms, and conditions of the Programs. Utility shall make the necessary arrangements to provide a location for such training at or near Utility's facilities.

10.3 Contractors. AWR shall be responsible for engaging qualified independent contractors to perform the services included in the Programs. AWR shall contract with and maintain a sufficient number of contractors to perform promised services under the Programs, during the term of this Agreement. The cost of all services provided by such contractors shall be paid by AWR. Nothing in this Agreement shall be deemed to create any obligation on the part of Utility to undertake performance of any such services or pay for such services by the contractors engaged by AWR.

10.4 Administration. AWR shall be responsible for coordinating all administrative activities for the Programs and its customers including, but not limited to, enrollments, billings, accounting, marketing, financial analysis and reporting. AWR shall promptly notify Utility of customer enrollments in the Programs, including any changes in enrollment or billing status.

SECTION 11. Joint Obligations of the Parties.

11.1 AWR and Utility agree to cooperate to review existing planning, management and operations practices for the Programs.

## SECTION 12. Arbitration.

It is the stated intent and purpose of both parties at all times to reach agreement by negotiation between AWR and Utility, without recourse to arbitration. In the event, however, that such dispute or difference is not settled, either party may request that the matter be referred to arbitration. The demand for arbitration must be submitted to the American Arbitration Association within sixty (60) calendar days after the date of such request, in which case the arbitration shall cover and resolve any then existing controversy or claim between the parties hereto which directly or indirectly arises out of or relates to this Agreement. The arbitration shall be conducted in Voorhees, New Jersey in accordance with the rules and procedures then existing under the Commercial Arbitration Rules of the American Arbitration Association, provided that notwithstanding anything to the contrary contained in such Rules the following shall apply: The arbitration board shall consist of three arbitrators. AWR shall choose one arbitrator and Utility shall choose one arbitrator. If the two arbitrators appointed by the parties fail to agree within five (5) business days upon the selection of a third arbitrator, the third arbitrator shall be selected from a list of arbitrators supplied by the American Arbitration Association or otherwise in accordance with such Rules. After the appointments of the third arbitrator, the arbitration board shall meet as necessary for the purpose of reaching a determination in the dispute or difference, and the decision of the majority of the board, submitted in writing, to AWR and Utility shall be final and binding upon both parties. Judgment upon any decision rendered by such arbitration board may be entered in any court having jurisdiction. Each party shall bear the expense of its own arbitrators and witnesses, and the expenses of the third arbitrator and any general expenses of the arbitration shall be born equally by both parties.

SECTION 13. Force Majeure.

If, because of any act or occurrence beyond the reasonable control of either party, including, without limitation, acts of God, legislation or lawful regulations of any governmental body, court orders, fire, flood, explosion, strikes, labor disputes or shortage, wars or civil commotion, either party is reasonably prevented from performing any or all of its obligations hereunder, and if the party unable to perform shall be required to resume performance of its obligations under this Agreement upon the termination of the aforementioned Force Majeure, any time or date limitations shall be extended to the extent such party is so prevented.

SECTION 14. Assignments.

This Agreement shall not be assigned by either party without the prior written consent of the other party unless such assignment shall be to an affiliate or successor of either party.

SECTION 15. Amendments.

This Agreement may be modified only by a written amendment signed by both parties.

SECTION 16. Notices.

All notices provided for in this Agreement shall be in writing and shall be deemed to have been given when hand delivered or deposited in the U.S. mail, postage prepaid, registered or certified, return receipt requested, as follows:

If to AWR:

American Water Resources, Inc.  
1025 Laurel Oak Road  
Voorhees, New Jersey 08043  
Attention: William Eisenstadt, Vice President

If to Utility:

Arizona American Water Company  
19820 North 7th Street, Suite 201  
Phoenix, Arizona 85024  
Attention: Rob Kuta, Vice President

SECTION 17. Governing Law.

This Agreement, including the validity thereof and the rights and obligations of the parties thereunder, shall be construed in accordance with, and governed by the laws of the State of New Jersey.

SECTION 18. Indemnification.

18.1 AWR shall, and shall cause its Repair Contractors to, defend, indemnify and hold harmless Utility, its officers, directors, employees and agents from and against any and all liability, including liability to third parties, for personal injury, including death, property damage, or other actions, damages, fines, penalties, claims, demands, judgments, losses, costs, expenses, suits and actions (including reasonable attorney's fees), for personal injury, including death, property damage or other injury, to the extent caused by or arising out of negligence or wrongful or willful misconduct on the part of AWR, its Repair Contractors, or their respective officers, employees, agents, contractors, and subcontractors in connection with the services rendered to Utility by AWR pursuant to the terms of this Agreement.

18.2 Utility shall defend, indemnify and hold harmless AWR, its officers, directors, employees and agents from and against any and all liability, including liability to third parties, for personal injury, including death, property damage, or other actions, damages, fines, penalties, claims, demands, judgments, losses, costs, expenses, suits and actions (including reasonable attorney's fees), for personal injury, including death, property damage or other injury, to the extent caused by or arising out of negligence or wrongful or willful misconduct on the part of Utility, its officers, employees, agents, contractors, and subcontractors in connection with the services rendered to AWR by Utility pursuant to the terms of this Agreement.

SECTION 19. No Waiver.

The failure of a party to insist on strict performance of any or all of the terms of this Agreement, or to exercise any right or remedy under this Agreement, shall not constitute a waiver or relinquishment of any nature regarding such right or remedy or any other right or remedy. No waiver of any breach or default hereunder shall be considered valid unless in writing and signed by the party giving such waiver, and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature.

SECTION 20. Severability.

In case one or more of the covenants, terms or provisions contained in this Agreement shall be held invalid, illegal, or unenforceable in any respect, the validity of the remaining covenants, terms, and provisions contained herein shall be in no way affected, prejudiced, or disturbed and the remaining covenants, terms, and provisions shall remain in full force and effect.

SECTION 21. No Third-Party Beneficiaries.

No customer of the Programs, contractor of AWR, or any other third party shall be deemed a third-party beneficiary of this Agreement.

SECTION 22. Independent Contractor.

It is understood that the relationship of Utility to AWR is that of an independent contractor and not that of an employee and or agent of AWR. None of the employees or agents of Utility shall be considered employees of AWR. None of the employees or agents of AWR shall be considered employees of Utility. Each party shall be wholly responsible and liable for the employment taxes and withholdings due as a result of their performance hereunder.

SECTION 23. Complete Agreement.

This Agreement sets forth the entire understanding of the parties, which supersedes and merges all prior proposals, understandings and all other agreements, oral or written, between the parties relating to the subject matter hereof and may not be modified except in a writing executed by both parties.

SECTION 24. Titles and Headings.

Titles and headings to sections or paragraphs herein are inserted merely for convenience of reference and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

SECTION 25. Counterparts.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

SECTION 26. Condition Precedent.

This Agreement may be conditioned upon any necessary approval of the ACC.

SECTION 27. Limitation of Liability.

**NEITHER PARTY WILL BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES, WHETHER ARISING OUT OF BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, ATTRIBUTABLE TO OR RESULTING FROM ITS PERFORMANCE HEREUNDER.** In no event will Utility's liability for damages caused by its failure to supply material or perform services in a proper or timely manner exceed the amount paid by AWR to Utility for such materials or services.

SECTION 28. Non-Exclusive

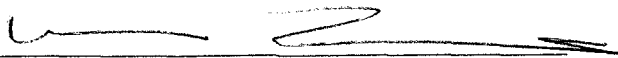
This Agreement is non-exclusive and Utility may enter into similar agreements with other



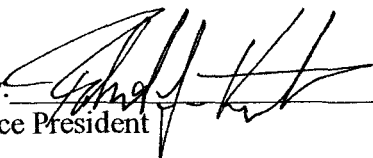
entities.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives, as of the day and year first above written.

AMERICAN WATER RESOURCES, INC.

By:   
Vice President

ARIZONA AMERICAN WATER COMPANY

By:   
Vice President

## **APPENDIX A**

### **Water Line Protection Program:**

For a periodic fee, Utility customers may enroll in the Water Line Protection Program that, subject to its terms and conditions, provides a service to repair customer-owned water lines that leak or break due to normal wear and tear.

### **Sewer Line Protection Program:**

For a periodic fee, Utility customers may enroll in the Sewer Line Protection Program that, subject to its terms and conditions, provides a service to clear or repair blocked customer-owned sewer lines that become clogged or blocked due to normal wear and usage.

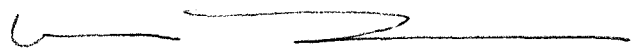
SERVICE ORDER

American Water Resources, Inc. (AWR) hereby engages Arizona American Water Company (Utility) to perform the following services, pursuant to the Agreement for Support Services executed between the parties on March 1, 2005:


Water and Sewer Line Protection Programs:

1. Distribution of Promotional Materials. See Section 6.1.1 for scope of services.
2. Repair Service Initiation. See Section 6.1.2 for scope of services.
3. Distribution of Customer Surveys. From time to time, AWR may develop customer surveys designed to measure customer satisfaction with the Programs, and if necessary, make Program enhancements. AWR shall submit such survey materials to Utility for review and comment prior to distribution to customers.
4. Billing and Collecting. Utility shall bill each of its customers who AWR identifies as having requested service and billing from Utility by a line item on the customer's water bill. AWR shall furnish reasonable evidence that a customer has requested the service to Utility upon Utility's request. Utility shall collect payments from the enrolled customers and forward same to AWR within fifteen days following the end of each calendar month for amounts collected during such month. All payments made by the customer shall be credited first to payment of any amount owed for utility service furnished by Utility; any remainder shall first be credited to payment of any amount owed for utility service furnished by someone other than Utility but shown as a line item on the bill sent to the customer by Utility; and any remainder shall then be credited to payment of any amount owed to AWR. Utility shall not interrupt, cease or refuse utility service to a customer for non-payment of amounts owed to AWR. AWR shall be responsible for all collection efforts for non-payment by Utility customers for AWR Programs.

AMERICAN WATER RESOURCES, INC.

By:   
Vice President

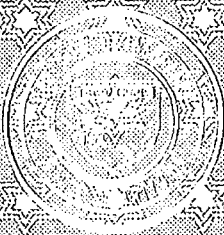
ARIZONA AMERICAN WATER COMPANY

By:   
Vice President

**Exhibit B**

**Department of Insurance Permit:  
American Water Resources, Inc.**

# STATE OF ARIZONA



## SERVICE COMPANY

### PERMIT

AMERICAN WATER RESOURCES, INC.

Domiciled in Virginia

a SERVICE COMPANY, as defined in Arizona Revised Statutes Section 20-1095 and qualifying pursuant to Section 20-1095.03, is hereby authorized, subject to its lawful authority, to transact business as a SERVICE COMPANY within the State of Arizona, during the period from midnight the 31<sup>st</sup> day of December, 2004, to midnight the 31<sup>st</sup> day of December, 2005, unless sooner revoked or suspended by the Director of Insurance.

This Permit remains the property of the State of Arizona. Upon revocation or suspension by the Director, the SERVICE COMPANY shall immediately deliver this Permit to the Director of Insurance.

In TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Director of Insurance at the City of Phoenix this 29<sup>th</sup> day of December, 2004.

  
Christina Urias  
Director of Insurance

0002933

**AMERICAN WATER RESOURCES, INC.  
Program Summary Descriptions – WLPP & SLPP**

**Water Line Protection Program (WLPP)**

The WLPP is to be advertised through mailings to single-family residential homeowners in Arizona who reside within the service territory of Arizona American Water Company. In addition, AWR plans to send mailings to other single-family residential homeowners in Arizona who reside outside of the Arizona American's service territory. These advertisements will include a one-page brochure highlighting the benefits of the WLPP, as well as an enrollment form and a one-page agreement setting forth the WLPP's terms and conditions. The brochure advises that most homeowner insurance policies do not cover repairing the water line from the street to the home.

When a customer enrolls in the WLPP, a set, non-underwritten fee in the amount of \$60 per year, plus any applicable sales tax, will be paid to AWR. Customers will be billed in equal installments on their periodic water bill from Arizona American.

In the event of a service line problem resulting from normal wear and tear, the WLPP covers the cost of repair up to a limit of \$4,000 per occurrence, including up to \$500 for the repair of public sidewalks.

If a leak is suspected, the WLPP requires the customer to call a toll-free number to report the problem. When a customer calls to report a suspected leak, the WLPP requires AWR to retain an approved independent contractor to visit the property and investigate and repair the leak. All payments to the repair contractor would be made directly by AWR. If a permit is required, the WLPP calls for AWR to obtain the permit. In no event would the customer receive an indemnity payment under the WLPP. The WLPP provides that customers will not be charged any deductible or service call fees.

The WLPP only covers repairs associated with normal wear and tear. It lists thirteen specific exclusions, including: damages incurred or existing prior to participation in the WLPP, damage caused by negligence of the customer or third parties, restoration of landscaping, leaks inside the residence, etc. One of the exclusions states that there will be no coverage for damage caused by "any other insurable cause."

The WLPP limits AWR's liability in connection with any damages resulting from services provided or the failure to provide services under the WLPP to a maximum of \$4,000. All liability for special, indirect, incidental, consequential or punitive damages is specifically excluded.

### **Sewer Line Protection Program (SLPP)**

The SLPP is nearly identical to the WLPP. The SLPP will be advertised through mailings to single-family residential homeowners in Arizona who reside within the service territory of AWR's utility affiliate company Arizona American Water Company. In addition, AWR plans to send mailings to other single-family residential homeowners in Arizona who reside outside of the Arizona American service territory. These advertisements will include a one-page brochure highlighting the benefits of the SLPP, as well as an enrollment form and a one-page agreement setting forth the SLPP's terms and conditions. The brochure advises that most homeowner insurance policies do not cover repairing the water line from the street to the home.

When a customer enrolls in the SLPP, a set, non-underwritten fee in the amount of \$109 per year, plus any applicable sales tax, will be paid to AWR. Customers will be billed on their periodic water or sewer bill from Arizona American.

As with the WLPP, if a blockage in the sewer line is suspected, the SLPP requires the customer to call a toll-free number to report the problem. AWR would then retain an approved independent contractor to visit the property within twenty four hours to investigate the blockage. If the sewer line is blocked, as a result of normal wear and tear, between the exterior foundation wall of the customer's home and the point where the line connects to the sewer authority's collection system, the SLPP would cover the costs associated with clearing or repairing the blockage up to a limit of \$4,000 per occurrence. This coverage is subject to a \$50 service fee for each time an independent contractor is dispatched to the customer's home.

Subject to the aforementioned \$4,000 limit, the SLPP requires AWR to obtain any permits necessary to complete a covered repair. If a permit is required and a public road or sidewalk must be cut or excavated to perform the necessary repairs, the SLPP would provide an additional limit of \$4,000 per occurrence to perform such repairs. With the exception of the \$50 service fee, all payments to the repair contractor would be made directly by AWR.

The SLPP only covers repairs associated with normal wear and tear and includes several exclusions, such as: damages incurred or existing prior to participation in the SLPP, damage caused by negligence of the customer or third parties, restoration of landscaping, restoration of non-public roads or sidewalks, and damages to the interior of a customer's home due to sewage backup.

As with the WLPP, the SLPP limits AWR's liability in connection with any damages resulting from services provided thereunder or the failure to provide services thereunder to a maximum of \$4,000 (or up to an additional \$4,000 limit that applies separately, if applicable, in the case of a public road or sidewalk opening. All liability for special, indirect, incidental, consequential or punitive damages is specifically excluded.